

## UNITED STATES DEPARTMENT OF COMMERCE

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VB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR		A	TTORNEY DOCKET NO.
09/276,45	5 03/25/	99 FERSHT		А	674508-2001
		UM4 0 704 07	乛	E	XAMINER
HM12/0106 C/O FROMMER LAWRENCE & HAUG LLP				HAMUD	. F
THOMAS J KOWALSKI ESQ				ART UNIT	PAPER NUMBER
745 FIFTH NEW YORK	AVENUE			1646	8
	· · · · · · · · · · · · · · · · · · ·			DATE MAILED:	
					01/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks** 

Application No.

Applicantes

Fersht et al.

## Office Action Summary

09/276,455

Examiner

Fozia Hamud

Group Art Unit 1646

TIN		
4		
-		

Responsive to communication(s) filed on Nov 15, 1999	•
☐ This action is <b>FINAL</b> .	
Since this application is in condition for allowance except for in accordance with the practice under Ex parte Quayle, 1935	formal matters, prosecution as to the merits is closed C.D. 11; 453 O.G. 213.
A shortened statutory period for response to this action is set to is longer, from the mailing date of this communication. Failure to application to become abandoned. (35 U.S.C. § 133). Extension 37 CFR 1.136(a).	respond within the period for response will cause the
Disposition of Claims	
	is/are pending in the application.
Of the above, claim(s)	is/are withdrawn from consideration.
☐ Claim(s)	is/are allowed.
☐ Claim(s)	is/are rejected.
Claim(s)	
Application Papers	
☐ See the attached Notice of Draftsperson's Patent Drawing	Review, PTO-948.
☐ The drawing(s) filed on is/are objecte	d to by the Examiner.
☐ The proposed drawing correction, filed on	is approved disapproved.
$\hfill\Box$ The specification is objected to by the Examiner.	
☐ The oath or declaration is objected to by the Examiner.	
Priority under 35 U.S.C. § 119	
$\hfill \square$ Acknowledgement is made of a claim for foreign priority u	nder 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of	the priority documents have been
☐ received.	
received in Application No. (Series Code/Serial Numl	
received in this national stage application from the li	nternational Bureau (PCT Rule 17.2(a)).
*Certified copies not received:	25 H C C 5 440/e)
Acknowledgement is made of a claim for domestic priority	under 35 U.S.C. 3 119(e).
Attachment(s)	
☐ Notice of References Cited, PTO-892	
☐ Information Disclosure Statement(s), PTO-1449, Paper No.	(s)
☐ Interview Summary, PTO-413	
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948	
□ Notice of Informal Patent Application, PTO-152	rules
X Notice to compt with sequence	2 · · · · · · · ·
SEE OFFICE ACTION ON TH	HE FOLLOWING PAGES

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**DETAILED ACTION** 

Election/Restriction

Applicant's election with traverse of Group I (claims 1-21, 29-31, 34-43 and 47) in Paper No. 1.

7, filed on November 15, 1999 is acknowledged. Upon further consideration the Examiner has

decided to re-restrict the claims of Group I as shown below.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Claims 1-21, 29-31 and 47, drawn to an isolated polypeptide, a pharmaceutical I.

composition comprising said polypeptide, and a method of treatment using said

polypeptide, classified in class 530 subclass 350.

Claims 34-43, drawn to a method of reconditioning a molecule by contacting said II.

molecule with a polypeptide, classified in class 435, sub class 7.2.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown

to be distinct if either or both of the following can be shown: (1) the process for using the product

as claimed can be practiced with another materially different product or (2) the product as claimed

can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the

instant case the polypeptide as claimed can be used diagnostically, or as an antigen for the production

of antibodies.

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Having shown that these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject

matter as defined by MPEP § 808.02, the Examiner has prima facie shown a serious burden of search

Therefore, an initial requirement of restriction for examination purposes as (see MPEP § 803).

indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an 3.

election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the

inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently

named inventors is no longer an inventor of at least one claim remaining in the application. Any

amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. §

1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

4. This application contains sequence disclosures that are encompassed by the definitions for

nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However,

this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the

reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications

Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

Direct the reply to the undersigned. Applicant is requested to return a copy of the attached

Notice to Comply with the reply.

Advisory Information

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fozia Hamud whose telephone number is (703) 308-8896. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lila Feisee, can be reached on (703) 308-2731.

Official papers filed by fax should be directed to (703) 308-4227. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Fozia Hamud Patent Examiner Art Unit 1646 Janauary 03, 2000

PREMA MERTZ PRIMARY EXAMINER